HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

H.B. NO. 757

A BILL FOR AN ACT

RELATING TO ENERGY STORAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that energy storage is a key component of a modern, smart electrical grid, and can help to maximize the use of indigenous renewable energy. Since the establishment of the Hawaii clean energy initiative, the State has been committed to transforming Hawaii's energy system into one that uses renewable energy, energy-efficiency technologies, and distributed energy storage for a significant portion of its energy needs. This renewable energy transformation will help to stabilize and strengthen Hawaii's economy by reducing dependence on imported fuels and will help protect Hawaii's environment by greatly reducing greenhouse gas emissions.

The legislature further finds that an energy storage portfolio standard, comparable to a renewable energy portfolio standard and an energy-efficiency portfolio standard, sets a target of energy storage to be achieved in incremental stages. Energy storage programs and technologies can make a significant

and cost-effective contribution to achieving the goals and objectives set out in the Hawaii clean energy initiative.

The legislature also finds that Hawaii has successfully utilized a renewable energy tax credit to foster a sustainable local renewable energy industry responsible for creating jobs, catalyzing statewide energy savings, improving our environment, and reducing greenhouse gas emissions. Similarly, a tax credit for grid-connected energy storage properties could promote the use of grid-connected energy storage that can address the varying needs of our island electric grids with technologies most applicable to those needs.

The purpose of this Act is to facilitate the use of renewable energy by the establishment of:

(1) A tax credit, limited in scope and duration, for grid-connected energy storage properties, which may be claimed as an investment tax credit or utilization tax credit; and

(2) Energy storage portfolio standards, which are not intended to delay or prevent the public utilities commission's approval of appropriate energy storage projects or other alternate means to deliver safe,

reliable, and cost-effective clean energy to consumers.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§235- Energy storage; income tax credit.** (a) There shall be allowed to any taxpayer subject to taxes under this chapter, an income tax credit for each grid-connected energy storage property that is installed and placed in service in the State during a taxable year beginning after December 31, 2015; provided that this tax credit shall not be available for taxable years beginning after December 31, 2026. The tax credit may be claimed in either, but not both, of the following forms:

(1) An investment credit equal to:

(A) For a grid-connected energy storage property first placed in service on or before December 31, 2021, per cent of the basis; or

(B) For a grid-connected energy storage property first placed in service after December 31, 2021, and on or before December 31, 2026, per cent of the basis; or

(2) A utilization credit equal to:

(A) For a grid-connected energy storage property first placed in service on or before December 31, 2021, cents per kilowatt-hour of energy storage capacity; or

(B) For a grid-connected energy storage property first placed in service after December 31, 2021, and on or before December 31, 2026, cents per kilowatt-hour of energy storage capacity.

The utilization credit may be claimed during each of the first ten taxable years that the grid-connected energy storage property is in service; provided that this annual utilization credit shall not exceed the product of the energy storage capacity measured in kilowatt-hours, multiplied by 365, multiplied by the applicable number of cents per kilowatt-hour.

If a deduction is taken under this chapter, no tax credit shall be allowed for that portion of the grid-connected energy storage property for which the deduction was taken.

(b) Multiple owners of a grid-connected energy storage property shall be entitled to a single tax credit, and the tax credit shall be apportioned between the owners in proportion to their contribution to the basis of the grid-connected energy storage property.

(c) In the case of a partnership, S corporation, estate, or trust, the tax credit allowable shall be for every eligible grid-connected energy storage property that is installed and placed in service in the State by the entity. The basis upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 704(b) of the Internal Revenue Code.

(d) For the purposes of this section:

"Basis" means the actual cost of the grid-connected energy storage property, including accessories, installation, storage devices, power conditioning equipment, control or transfer equipment, support structures, and other equipment related to energy storage and the functioning of those items.

Basis shall not include costs for which another credit is claimed under this chapter, costs for equipment which is

unrelated to the operation of the grid-connected energy storage property, the dollar value of any rebate received for the grid-connected energy storage property, or the cost of consumer incentive premiums unrelated to the operation of the grid-connected energy storage property or offered with the sale of the grid-connected energy storage property.

The basis of the grid-connected energy storage property shall not be reduced by the amount of any federal tax credit or other federally subsidized energy financing received by the taxpayer.

"Energy storage capacity" means the amount of electricity, measured in megawatt-hours or megawatts, that may be received by the grid-connected energy storage property for later retrieval. Energy storage capacity shall be determined based on the storage capability of the equipment, not its actual use when in operation.

"First placed in service" has the same meaning as in title 26 Code of Federal Regulations section 1.167(a)-11(e)(1).

"Grid-connected energy storage property" means equipment or devices that are connected to the electrical grid in either a centralized or distributed manner, have a capacity of at least

one megawatt-hour or one megawatt, and do one or more of the following:

(1) Use mechanical, chemical, or thermal processes to store energy received from the electrical grid or grid-connected renewable energy system, as that term is used in section 269-91, at one time for use at a later time by returning electricity to the grid or by avoiding the need to use electricity from the electrical grid at that later time by a facility or property that is electrical grid-connected;

(2) Use mechanical, chemical, or thermal processes to store energy received from the electrical grid or grid-connected renewable energy system, as that term is used in section 269-91, to provide ancillary services to the electrical grid;

(3) Store thermal energy, created from electricity received from the electrical grid or from grid-connected renewable energy system, as that term is used in section 269-91, for direct use for heating or cooling at a later time in a manner that avoids the need to use electricity from the electrical grid at

that later time in a facility or property that is electrical grid-connected; or

(4) Enable an energy storage device, primarily designed for use in transportation, with or without vehicles, to store and transmit energy from and to the electrical grid in a manner consistent with paragraph (1) or (2).

(e) The director of taxation shall prepare any forms that may be necessary to claim a tax credit under this section, including forms identifying the property type for each tax credit claimed under this section. The director may also require the taxpayer to furnish reasonable information to ascertain the validity of the claim for credit made under this section and may adopt rules pursuant to chapter 91 necessary to effectuate the purposes of this section.

(f) If the tax credit under subsection (a)(1) or (a)(2) exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted, unless otherwise elected by the taxpayer pursuant to subsection (g). All claims for the tax credit under this

section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(g) For any grid-connected energy storage property, a taxpayer may elect to reduce the eligible credit amount by thirty per cent and, if this reduced amount exceeds the amount of income tax payment due from the taxpayer, the excess of the credit amount over payments due shall be refunded to the taxpayer; provided that no refund on account of the tax credit allowed by this section shall be made for amounts less than $1.

The election required by this subsection shall be made in a manner prescribed by the director of taxation on the taxpayer's return for the taxable year in which the grid-connected energy storage property is installed and placed in service. A separate election may be made for each separate property that generates a credit. An election once made shall be irrevocable.

(h) An association of owners under chapter 514A or 514B, a cooperative housing corporation under chapter 421I, or a planned community association under chapter 421J may claim the credit

allowed under this section in its own name for grid-connected energy storage property placed in service and located on common areas.

(i) No credit under this section shall be allowed to any federal, state, or local government or any political subdivision, agency, or instrumentality thereof.

(j) The department of taxation shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the following for the most recent taxable year for which the department has data:

(1) The number of grid-connected energy storage properties for which a tax credit has been claimed during the taxable year; and

(2) The total cost of the tax credit to the State during the taxable year by tax credit type (investment or utilization) and refundability or nonrefundability."

SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

"**§269- Energy storage portfolio standards.** (a) The public utilities commission shall establish energy storage

portfolio standards that will maximize cost-effective energy storage programs and technologies.

(b) In determining the standards established pursuant to this section, the commission shall analyze currently available and commercially viable forms of energy storage that are feasible in the State and compare their costs to other non-storage solutions.

(c) The commission may establish incentives and penalties based on performance in achieving the energy storage portfolio standards by rule or order.

(d) The commission shall evaluate the energy storage portfolio standards every five years, beginning in 2020, based on the best information available at the time, to determine if the energy storage portfolio standards established by this section remain effective and achievable and may revise the standards. The commission shall report its findings, recommendations, and revisions to the energy storage portfolio standards, if any, based on its own studies and other information, to the legislature no later than twenty days before the convening of the regular session of 2021, and every five years thereafter."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2015-2016 and the same sum or so much thereof as may be necessary for fiscal year 2016-2017 for administration of the tax credit established by section 2 of this Act.

The sums appropriated shall be expended by the department of taxation for the purposes of this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2015; provided that section 2 shall apply to taxable years beginning after December 31, 2015.

INTRODUCED BY: Nicole E. Lowen

JAN 26 2015

H.B. NO. 757

Report Title:
Energy Storage; Tax Credit; Investment; Utilization; Energy Storage Portfolio Standards; Appropriation

Description:
Establishes an income tax credit for each grid-connected energy storage property that is installed and placed in service in the State during the taxable year beginning after 12/31/2015; provided that this tax credit shall not be available for taxable years beginning after 12/31/2026. Allows the tax credit to be claimed as either an investment credit or utilization credit. Appropriates moneys to administer the tax credit. Requires the Public Utilities Commission to establish and periodically revise energy storage portfolio standards and report to the Legislature.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.